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disclosure, the Examiner asserted that DUNBRIDGE et al. teaches a transmission power ratio as recited.

In the Response under 37 C.F.R. § 1.116 filed on December 5, 2002, Applicant took issue with, inter alia, the Examiner's characterization of the DUNBRIDGE et al. reference. In particular, Applicant asserted that DUNBRIDGE et al. do not teach, disclose nor render obvious a transmission power ratio as defined in Applicant's claims.

In the Advisory Action issued by the U.S. Patent and Trademark Office on January 6, 2003, the Examiner asserted that because "DUNBRIDGE et al. disclose 'user signal power ratios' (see Col. 6, lines 23-36), note that the word ratio is in plural including both receiving and transmitting". Thus the Examiner's position is that since DUNBRIDGE et al. uses the term "ratio" in the plural form, it includes both receiving and transmitting power ratios. It is respectfully submitted that the Examiner's interpretation of the DUNBRIDGE et al. disclosure is incorrect.

Initially, Applicant notes that he is unclear as to whether the Examiner is asserting that based on the use of the term "ratios" it is inherent that receiving and transmitting power ratios are disclosed by DUNBRIDGE et al. or whether the Examiner is asserting that such ratios may be included in the scope of the term "ratios". Applicant will address and point out the inaccuracy of the Examiner's position with respect to each of these possible interpretations.

Applicant submits that the term "user signal power ratios" does not refer to a transmission power ratio et al., but rather refers to the signal to interference ratio (i.e., SIR) In particular, this term refers to the ratios of reception powers of a user of interest with respect to other users (i.e., not of interest). Thus the plural "ratios" refers to plural users not

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to plural types of ratios. According, the user signal power ratios disclosed in DUNBRIDGE et al. is unrelated to the transmission power ratio recited in Applicant's claim.

Further evidence that the use by DUNBRIDGE et al. of the term "user signal power ratios" does not refer to the ratio between transmission power and reception powers is clear from Figs. 4 and 5 of DUNBRIDGE et al. In particular, Fig. 4 shows the transmission network while Fig. 5 shows the receiving network. In this regard, it is significant to note that with respect to the "amplitude and face controls elements 42" shown with respect to the transmitting system (Fig. 4) of DUNBRIDGE et al., there is no comparator for the calculation of a user signal power ratio. Clearly, if the user signal power ratio is, as the Examiner asserts, the transmission power ratio, then such a comparator should be provided. This is further evidence that the term "user signal power ratios" of DUNBRIDGE et al. is unrelated to the transmission power ratios recited in Applicant's claims.

In contrast to the lack of a output from the amplitude and face control elements 42 of Fig. 4 of DUNBRIDGE et al. to a comparator, Applicant notes that, in the present application, the radio transmission sections 127 and 131 of Fig. 4 provide an output to the determination section 133 to determine the transmission power ratio, as recited in Applicant's claims. In this regard the Examiner's attention is directed to page 9, line 13 to page 10, line 26 of the present specification. No similar construction is shown in DUNBRIDGE et al. and thus it is even more clearly apparent that DUNBRIDGE et al. does not disclose or teach transmission power ratio.

As a result of the above disclosure of DUNBRIDGE et al., it is quite apparent that the Examiner's interpretation thereof is incorrect.

Thus, if the Examiner meant to assert that because of the use of the plural "ratios", a transmission power ratio was inherent, Applicant, by showing that the plural term is utilized to refer to different ratios, has clearly traversed the Examiner's rejection. Further, if the Examiner's rejection is based on the position that the term "ratios" may refer to both receiving and transmitting power ratios, Applicant respectfully submits that a rejection cannot be based on such a mere possibility. The Examiner must provide specific evidence that the claimed feature is disclosed by the reference. The Examiner has not done so and it is apparent from the above discussion no such evidence is possible since a transmission power ratio has been shown to clearly not be disclosed by DUNBRIDGE et al.

Accordingly, for each of the above reasons and certainly for all of the above reasons it is respectfully submitted that the Examiner's interpretation of the DUNBRIDGE et al. reference is incorrect and that even the proposed combination of FORSSEN et al. and DUNBRIDGE et al. does not disclose or teach the combination of features recited in Applicant's claims. Accordingly Applicant respectfully requests reconsideration and withdrawal of the outstanding rejection and an indication of the allowability of all of the claims pending in the present application, in due course.

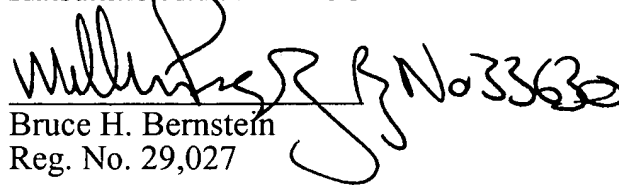
Applicant notes with appreciation the Examiner's indication the claims 9-11 would be allowable if rewritten into independent form including the limitations of the base claim and any intervening claims. However, because Applicant has provided a clear and convincing basis for the patentability of the independent claims, Applicant respectfully declines to rewrite claims 9-11 into independent form at this time.

SUMMARY AND CONCLUSION

Applicant has made a sincere effort to place the present application in condition for allowance and believes that he has now done so. Applicant has discussed the references cited by the Examiner with respect to the claims in the present application and has shown that the Examiner's interpretation of the references is inappropriate. Applicant has also shown that the references, even if combined as proposed by the Examiner do not teach or render obvious the combination of features recited in Applicant's claims. Accordingly, Applicant has provided a clear evidentiary basis supporting the patentability of all of the claims in the present application and respectfully requests an indication to such effect, in due course.

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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